

REMARKS

Claims 1, 3-14, 27, and 28 are pending in the present application. Claims 2, 15-26 and 29-39 have been cancelled without prejudice or disclaimer to the subject matter contained therein. The Applicant reserves the right to file a divisional application directed to the subject matter of cancelled claims 15-26 and 29-39.

A. Rejection of Claims 1-3, and 5 under 35 U.S.C. §102(b)

Claims 1, 3, 5, 7, 27, and 28 have been rejected under 35 U.S.C. §102(b) as being anticipated by Griffith et al. (US Published Application 2002-0039050). This rejection is respectfully traversed in view of the above amendments to the claims.

As respectfully submitted above, independent claim 1 has been amended to include the allowable subject matter of dependent claim 2. Therefore, the rejection under 35 U.S.C. §102(b) of claims 1, 3, 5, and 7 is moot.

In formulating the rejection of independent claim 27, the Examiner alleges that the method recitation is inherent in the disclosed structure of Griffith et al. This position by the Examiner is respectfully traversed.

To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the reference, and that it would be so recognized by persons of ordinary skill. Inherency cannot be established by probabilities, possibilities, or mere assertion. The mere fact that a certain thing may result from a given set of circumstances is insufficient to establish a basis for asserting inherency.

As set forth above, independent claim 27 recites a method of calibrating a phase-locked loop bandwidth by setting a phase-locked loop at a local oscillator offset; allowing the phase-locked loop to settle; measuring a first voltage of a voltage-controlled oscillator located in the phase-locked loop; setting the phase-locked loop to a channel center frequency; allowing the phase-locked loop to settle; measuring a second voltage of the voltage-controlled oscillator; determining a difference between the first and second voltage measurements; and controlling a programmable charge circuit located in the phase-locked loop to adjust its output current level based on the determined voltage difference.

It is clear from the record that the Examiner's argument directed to establishing the alleged inherency of the claimed method is based upon a probability or possibility that the disclosed structure could or would perform the claimed method recitation.

More specifically, the Examiner has failed to establish a factual basis demonstrating that one of ordinary skill in the art would be motivated to perform the claimed method recitation. Moreover, the Examiner has failed to demonstrate that the art of record would teach or suggest the performing of the claimed method recitation.

The only basis that the Examiner offers to support the notion that one of ordinary skill in the art would be taught, led, or motivated to perform the claimed method recitation is the Examiner's own unsupported assertion. This is pure conjecture on the part of the Examiner, as the prior art or record fails to, explicitly or implicitly, teach or suggest such a proposition. More specifically, the prior art of record fails to support an assertion that the disclosed structure would perform the claimed method recitation, as the Examiner appears to assert as fact.

Therefore, Griffith et al. fails to anticipate the presently claimed invention as set forth by independent claim 27.

Accordingly, in view of the above submitted amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw this rejection under 35 U.S.C. §102(b).

B. Rejection of Claims 7 and 8 under 35 U.S.C. §103

Claims 7 and 8 have been rejected under 35 U.S.C. §103 as being unpatentable over Griffith et al. (US Published Application 2002-0039050) in view of Eriksson (US-A-5,986,512). This rejection is respectfully traversed.

With respect to dependent claims 7 and 8, these claims depend from allowable independent claim 1. The Applicant reserves the right to present arguments at a later date to support the patentability of dependent claims 7 and 8.

Accordingly, in view of the above remarks, the Examiner is respectfully requested to reconsider and withdraw this rejection under 35 U.S.C. §103.

C. Rejection of Claim 12 under 35 U.S.C. §103

Claim 12 has been rejected 35 U.S.C. §103 as being unpatentable over Griffith et al. (US Published Application 2002-0039050) in view of Kirkpatrick (US-A-6,476,681). This rejection is respectfully traversed.

With respect to dependent claim 12, this claim depends from allowable independent claim 1. The Applicant reserves the right to present arguments at a later date to support the patentability of dependent claim 12.

Accordingly, in view of the above remarks, the Examiner is respectfully requested to reconsider and withdraw this rejection under 35 U.S.C. §103.

D. Rejection of Claims 13 and 14 under 35 U.S.C. §103

Claims 13 and 14 have been rejected under 35 U.S.C. §103 as being unpatentable over Griffith et al. (US Published Application 2002-0039050) in view of Lo et al. (US Published Application 2002-0075091). This rejection is respectfully traversed.

With respect to dependent claims 13 and 14, these claims depend from allowable independent claim 1. The Applicant reserves the right to present arguments at a later date to support the patentability of dependent claims 13 and 14.

Accordingly, in view of the above remarks, the Examiner is respectfully requested to reconsider and withdraw this rejection under 35 U.S.C. §103.

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Conclusion

Accordingly, in view of the amendments and the reasons set forth above, the Examiner is respectfully requested to reconsider and withdraw the present rejections. Also, an early indication of allowability is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew E. Connors", written over a horizontal line.

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